

## Proposed Amendments to Regulation 1619. Foreign Consuls.

### (a) Application of Tax.

(1) IN GENERAL. Neither sales tax nor use tax applies to the sale or use of tangible personal property sold or leased to foreign consular officers, employees, or members of their families, to the extent that such persons have been identified by the U. S. Department of State as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. Persons identified as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States will be issued a Tax Exemption Card by the U. S. Department of State which identifies the bearer as exempt from tax and which specifies the extent of the exemption.

Tax applies to sales of tangible personal property to foreign consular officers, employees, or members of their families, who do not hold a Tax Exemption Card issued by the U. S. Department of State except as provided in subparagraph (a)(2) below. Also, tax applies to sales of tangible personal property to persons holding Tax Exemption Cards where their total purchases in a single transaction do not exceed the minimum level of exemption as specified on the Tax Exemption Card. Sales or use tax applies to the sale or use of tangible personal property sold to nationals of the United States even though such persons may perform consular functions for foreign governments.

(2) VEHICLES. In addition to the exemption provided in subparagraph (a)(1), the purchase or lease of vehicles on or after the date of assumption of duties by foreign consular officers, employees, or members of their families who do not hold a Personal Tax Exemption Card will be exempt from the sales and use taxes if an identification letter is furnished directly to the retailer by the Office of Foreign Missions, U. S. Department of State (OFM). In the absence of a Mission Tax Exemption Card, the purchase or lease of vehicles on behalf of a mission also will be exempt from the sales and use taxes provided an identification letter is furnished directly to the retailer by OFM. Such letters must confirm the name, exempt status, identification number (if available), and the date of assumption of duties of the person seeking the exemption (if applicable) and must be furnished to the retailer at the time of the sale. For purposes of this regulation, "vehicle" is as defined in Section 6272 of the Revenue and Taxation Code.

Effective June 1, 2003, the sale or lease of vehicles to foreign consular officers, employees, or members of their families will be exempt from the sales and use tax if:

(A) The purchaser provides a valid Tax Exemption Card (Personal or Mission) or a protocol identification card to the retailer; and

(B) The retailer contacts and obtains directly from the OFM a letter stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax ("OFM Eligibility Letter").

**(b) Records of Retailers.** Invoices or other written evidence of sale must be retained by the retailer to support any deduction claimed on sales tax returns for sales to foreign consuls. The invoices should show the name of the purchaser, the name of the mission, the tax exemption number, the expiration date of the Tax Exemption Card, and the minimum level of exemption specified on the Tax Exemption Card. In addition, to support each transaction claimed as an exempt sale or lease of a vehicle to a foreign diplomat or mission not holding a Tax Exemption Card, the identification letter from the ~~OFM Office of Foreign Missions, U. S. Department of State~~, confirming the exempt status of the diplomat must be retained by the retailer.

Effective June 1, 2003, in addition to retaining invoices or other written evidence as specified above, the retailer must retain a copy of the Tax Exemption Card (Personal or Mission) or protocol identification card, and the OFM Eligibility Letter to support each transaction claimed as an exempt sale or lease of a vehicle to a foreign consular officer, employee, or member of his or her family.

Note: For special provisions affecting record retention, see Regulation 1698.

*Authority:* Section 7051 revenue and Taxation Code

*Reference:* Sections 6272, 6352, and 7053, Revenue and Taxation Code; and Vienna Convention on Diplomatic Relations of April 18, 1961, Article 34 (23 UST 3242) T.I.A.S. No. 7502.

\*\*\*\*\*

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.